

Zoning Variance Important Points

Important introductory points to know about variances:

- Variances are a relief mechanism for landowners who feel that zoning is denying them a reasonable use of their property.
- Variances cannot be considered or granted for uses not otherwise permitted in a zone.
- Variances are only appropriate when there is a denial of reasonable use, not simply an inconvenience or diminution of property value.
- Variance requests must meet *all* 8 of the conditions listed in the Flathead County Zoning Regulations.
- Notices of public hearing will be mailed to all landowners within 150 feet of the subject property and published in the newspaper.
- Planning staff are available to meet with you and review your situation prior to making application for a variance.

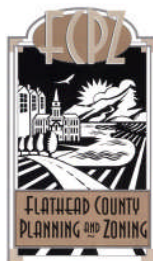
Mission Statement:

“The Flathead County Planning & Zoning Office is committed to providing the highest level of planning services. We will accomplish this through employees who anticipate public needs, and promote a work environment that encourages creativity, communication and cooperation. The Office will also encourage professional development and training for all staff members.”

*Flathead County
Planning & Zoning*

Zoning Variance

For more information, contact:



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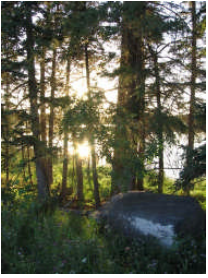
Website: <http://flathead.mt.gov/>

An informational
brochure.

Flathead County Planning & Zoning

What is a “zoning variance?”

A zoning variance is a way for a property owner to seek relief from a zoning regulation that is denying them a reasonable use of their property.



Narrow, lakefront lots created before zoning can have challenging setback requirements.

It is important to distinguish that a mere reduction of property value is not necessarily grounds for approval of a variance. For example, a

30-foot wide lakefront lot created prior to zoning, on which zoning later imposes a 15-foot side setback would not allow for any structure to be built. This would be an example of when applying for a variance may be appropriate. However, a landowner who wants to expand an existing home into a setback is not being denied all reasonable use, just their desired use. This is a critical difference when considering applying for a variance. Furthermore, the Flathead County Zoning Regulations do not allow for the considering or granting of variances for uses not normally allowed. In other words, all zones have permitted uses and simply not allowing the use one may desire is not a “denial of all reasonable use.”

Variance Criteria

All applications for a variance are reviewed for conformance with a set of 8 conditions found in the Flathead County Zoning Regulations. All 8 conditions must be met or found to be not pertinent. Bearing in mind the previous example of when a variance is appropriate and when one is not, consider these conditions:

- Strict compliance with the provisions of the (zoning regulations) will (1) limit the reasonable use of property and (2) deprive the applicant of rights enjoyed by other properties similarly situated in the same district.
- The hardship is a result of lot size, shape, topography, or other circumstances over which the applicant has not control.
- The hardship is peculiar to the property.
- The hardship was NOT created by the applicant.
- The hardship is not economic (when a reasonable or viable alternative exists).
- Granting the variance will not adversely affect the neighboring properties or the public.
- The variance requested is the minimum variance which will alleviate the hardship.
- Granting the variance will not confer a special privilege that is denied other similar properties in the same district.

Variance Process

Application forms for a variance are available in the Flathead County Planning and



However, setbacks and all zoning regulations are important for public health and safety.

Zoning Office, or online at the Flathead County Planning and Zoning office website (see reverse of this pamphlet for

address). Applications and application fees are submitted to the Planning and Zoning Office for review. Planning staff will review the application, research any necessary details and visit the site to take pictures and measurements. A report will be prepared reviewing each of the 8 conditions and the requested variance’s conformance with these conditions. Furthermore, notification of the variance request and of a date, time and place for a public hearing will be mailed to landowners within 150’ of the subject property and published in the newspaper. The Flathead County Board of Adjustment will hold a public hearing and review staff’s report, the applicant’s testimony, public testimony and Board discussion. After reviewing everything presented, the Board will determine “findings of fact” based on the 8 conditions for a variance and make a decision to grant or deny the application. Persons aggrieved by the decision of the Board may appeal that decision to the district court within 30 days.